

# WINSTON & STRAWN LLP

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SAN FRANCISCO, CALIFORNIA 94111-5802

February 11, 2009

WILLIAM M. SULLIVAN, JR.

(202) 282-5744

wsullivan@winston.com

## VIA COURIER

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
c/o Natek  
236 Massachusetts Avenue, N.E., Suite 110  
Washington, D.C. 20002

FILED/ACCEPTED  
FEB 11 2009  
Federal Communications Commission  
Office of the Secretary

**Re: Appeal of USAC Commitment Adjustment Decisions**

**CC Docket No. 02-6**

**Request for Review**

**Request for Waiver**

**Applicant Name:** Morrow County School Dist 1  
**Billed Entity Name:** Morrow County School Dist 1  
**Billed Entity Number:** 145127  
**FCC Registration Number:** 0012534509  
**471 Application Numbers:** 361855, 366035, and 413243  
**Funding Request Numbers:** 980359, 994429, 1135124

Dear Secretary Dortch:

This firm represents the Morrow County School District (Oregon). On behalf of our client, we hereby appeal to the Federal Communications Commission ("FCC") the January 15, 2009 Commitment Adjustment Decisions of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC"). We also reserve our client's rights to request a waiver of relevant policy, rules and/or deadlines.

As reflected in the three (3) attached USAC documents entitled *Notification of Commitment Adjustment Letter*, dated January 15, 2009, USAC rescinded in full its funding commitments to our client for the Funding Request Numbers ("FRNs") cited in those letters. See

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WINSTON & STRAWN LLP

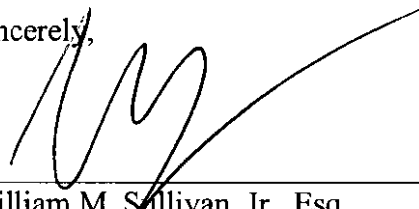
Secretary Dortch  
February 11, 2009  
Page 2

Ex. A (SLD's Decision re Application No. 361855); Ex. B (SLD's Decision re Application No. 366035); Ex. C (SLD's Decision re Application No. 413243).

As we were only recently engaged to represent our client on this new matter, we will supplement this appeal with a full discussion of the Morrow County School District's positions and supporting arguments as soon as possible.

Thank you for your attention to this matter. Should you have any questions, please contact Sarah M. Hall, Esq. at (202) 282-5862, or by email at [smhall@winston.com](mailto:smhall@winston.com).

Sincerely,



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William M. Sullivan, Jr., Esq.  
**WINSTON & STRAWN LLP**  
1700 K Street, N.W.  
Washington, D.C. 20006  
Tel. (202) 282-5000  
Fax (202) 282-5100  
email: [wsullivan@winston.com](mailto:wsullivan@winston.com)

Enclosures

# **EXHIBIT A**



**Schools & Libraries Division**

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**Notification of Commitment Adjustment Letter**

**Funding Year 2003: 7/01/2003 - 6/30/2004**

January 15, 2009

**TAMI SNEDDON  
MORROW COUNTY SCHOOL DIST 1  
270 W MAIN ST  
LEXINGTON, OR 97839**

**Re: Form 471 Application Number: 361855  
Funding Year: 2003  
Applicant's Form Identifier: MCSD0304ISP  
Billed Entity Number: 145127  
FCC Registration Number: 0012534509  
SPIN Name: Morrow Development Corp  
Service Provider Contact Person: Eileen Hendricks**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

## TO APPEAL THIS DECISION:

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1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
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4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org) using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

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The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Eileen Hendricks  
Morrow Development Corp

## A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

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**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

**ORIGINAL FUNDING COMMITMENT:** This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

**COMMITMENT ADJUSTMENT AMOUNT:** This represents the amount of funding that SLD has rescinded because of program rule violations.

**ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

**FUNDS DISBURSED TO DATE:** This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

**FUNDS TO BE RECOVERED FROM APPLICANT:** This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for  
Form 471 Application Number: 361855**

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Funding Request Number:	980359
Services Ordered:	INTERNET ACCESS
SPIN:	143023033
Service Provider Name:	Morrow Development Corp
Contract Number:	N/A
Billing Account Number:	541-989-8202
Site Identifier:	145127
Original Funding Commitment:	\$1,570,560.00
Commitment Adjustment Amount:	\$1,570,560.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$1,570,560.00
Funds to be Recovered from Applicant:	\$1,570,560.00

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review it was determined that the school employee who was involved in determining the services sought by the applicant and the selection of the applicant's service providers is associated with a service provider that was selected. Nate Arbogast, the technology director of the school, is also an employee of the service provider selected to provide services for this FRN. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Neither the applicant nor the applicant's consultant should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. Since the applicant has engaged in an improper relationship with a selected service provider, which represents the conflict of interests and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING**

EDIE ALLSTOTT  
MORROW COUNTY SCHOOL DIST 1  
2001 SW NYE AVE.  
PENDLETON, OR 97801

# **EXHIBIT B**



**Schools & Libraries Division**

**Notification of Commitment Adjustment Letter**

**Funding Year 2003: 7/01/2003 - 6/30/2004**

January 15, 2009

**TAMI SNEDDON  
MORROW COUNTY SCHOOL DIST 1  
270 W MAIN ST  
LEXINGTON, OR 97839**

**Re: Form 471 Application Number: 366035  
Funding Year: 2003  
Applicant's Form Identifier: MCSD0304ICN2  
Billed Entity Number: 145127  
FCC Registration Number: 0012534509  
SPIN Name: Morrow Development Corp  
Service Provider Contact Person: Eileen Hendricks**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

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1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
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Schools and Libraries Division  
Universal Services Administrative Company

cc: Eileen Hendricks  
Morrow Development Corp

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**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for  
Form 471 Application Number: 366035**

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Funding Request Number:	994429
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143023033
Service Provider Name:	Morrow Development Corp
Contract Number:	N/A
Billing Account Number:	541-989-8202
Site Identifier:	145127
Original Funding Commitment:	\$6,277.50
Commitment Adjustment Amount:	\$6,277.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$6,277.50
Funds to be Recovered from Applicant:	\$6,277.50

**Funding Commitment Adjustment Explanation:**

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EDIE ALLSTOTT  
MORROW COUNTY SCHOOL DIST 1  
2001 SW NYE AVE.  
PENDLETON, OR 97801

# **EXHIBIT C**



**Schools & Libraries Division**

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**Notification of Commitment Adjustment Letter**

**Funding Year 2004: 7/01/2004 - 6/30/2005**

January 15, 2009

**Tami Sneddon  
MORROW COUNTY SCHOOL DIST 1  
270 W MAIN ST  
LEXINGTON, OR 97839**

**Re: Form 471 Application Number: 413243  
Funding Year: 2004  
Applicant's Form Identifier: MCSD0405TEL  
Billed Entity Number: 145127  
FCC Registration Number: 0012534509  
SPIN Name: Morrow Development Corp  
Service Provider Contact Person: Eileen Hendricks**

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Schools and Libraries Division  
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**FUNDS TO BE RECOVERED FROM APPLICANT:** This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for  
Form 471 Application Number: 413243**

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Funding Request Number:	1135124
Services Ordered:	TELCOMM SERVICES
SPIN:	143023033
Service Provider Name:	Morrow Development Corp
Contract Number:	MTM
Billing Account Number:	541-989-8202
Site Identifier:	145127
Original Funding Commitment:	\$758,160.00
Commitment Adjustment Amount:	\$758,160.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$758,160.00
Funds to be Recovered from Applicant:	\$758,160.00

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review it was determined that the school employee who was involved in determining the services sought by the applicant and the selection of the applicant's service providers is associated with a service provider that was selected. Nate Arbogast, the technology director of the school, is also an employee of the service provider selected to provide services for this FRN. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. Neither the applicant nor the applicant's consultant should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. Since the applicant has engaged in an improper relationship with a selected service provider, which represents the conflict of interests and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING**

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